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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,662	03/30/2000	Ricky F Combest	5249-2	8540

27557 7590 06/14/2006

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/539,662	COMBEST, RICKY F	
	Examiner	Art Unit	
	Kristie Shingles	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,28-47 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,28-47 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

*Applicant has no amended claims.
Claims 8-27 and 48-50 are non-elected.*

Claims 1-7, 28-47 and 51 are pending.

Response to Arguments

1. Applicant's arguments filed 1/19/2006 have been fully considered but they are not persuasive.

- A. Regarding claims 1-4 and 7: Applicant argues in substance that there is no reason to combine the teachings of *Schneider et al* (USPN 6,105,027) with *Weschler* (USPN 6,470,332), since *Schneider et al* uses an access control database in which changes are propagated to all local copies while *Weschler* teaches an improvement on LDAP queries.

The Examiner respectfully disagrees. *Schneider et al* in view of *Weschler* are used to achieve the claimed limitation of each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, *Weschler's* teaching of a peer-to-peer type network implementing access sharing, wherein each user of a network access device has profile information stored on

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their device and other users of the network are able to search and access the existing profile information of other users (col.5 lines 4-45, col.6 lines 32-65, col.7 line 31-col.8 line 63 and col.9 lines 15-63) is an obvious modification to *Schneider et al's* teaching of network access devices which uses access filters to permit or deny other user's access to network access devices (Abstract, col.11 line 29-col.12 line 55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Schneider et al* and *Weschler* because using an access filter to permit user's to access other user's devices is obvious to protect the privacy and integrity of information stored on each user's device. Storing information about the corresponding one of the first network member and the second network member in respective network access devices is an obvious interaction and use of users with network devices, furthermore allowing that such information is searchable by the other one of the first network member and the second network member is well-known in the art of peer-to-peer networking and file sharing. Applicant's arguments are therefore unpersuasive and the rejections under *Schneider et al* and *Weschler* are maintained.

- B. Regarding claims 28-36, 38-44, 47 and 51: Applicant argues the combination of the prior arts of record, *Kleinpeter III et al* (USPN 6,907,463) in view of *Schneider et al* (USPN 6,105,027) because the updating of the local copies in *Schneider et al* would have obviated the need for the agent server of *Kleinpeter III et al*.

The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

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1986). Applicant's arguments regarding the updating of local copies in *Schneider et al* and the agent server of *Kleinpeter III et al* are unrelated to the claimed invention and irrelevant to the use of the references as prior art in the rejection of the above claims. In response to Applicant's argument that there is no suggestion to combine the references, *Kleinpeter III et al* in view of *Schneider et al* is cited in combination for achieving the functionality of a virtual network wherein user's form memberships, using *Schneider et al*'s teaching of a virtual network is a well-known feature in the art and does not obviate *Kleinpeter III et al*'s teaching for file exchange between user's in a network. Applicant's arguments are therefore unpersuasive and the rejections under *Kleinpeter III et al* and *Schneider et al* are maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-4 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneider et al* (USPN 6,105,027) in view of *Weschler* (USPN 6,470,332).

a. **Per claim 1**, *Schneider et al* teach a dynamic virtual network on which participating members can establish partnerships, communicate, and share information, the network comprising:

- a network authority including a computer programmed for network administration (Abstract, col.8 lines 9-17 and col.13 lines 9-67; provision for virtual private network and network administration);

- at least a first network member and a second network member, each member including a computer comprising means for communicating over a global network (col.4 lines 43-62 and col.11 lines 29-39; provision for membership of network user);
- for each network access device and the network authority, an interface facilitating connection to a global network (col.7 line 31-col.8 line 39; each networked access device is connected to the network).

Schneider et al further teach at least a first network access device and a second network access device, wherein the first access device is accessible by the first network member and the second access device is accessible by the second network member (col.11 line 29-col.12 line 55). Yet, *Schneider et al* fail to explicitly teach that each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member. However, *Weschler* discloses users of a peer-to-peer type network implementing access sharing capabilities, wherein each user is has profile information stored on their network access device and each able to search and access the profile information of another user (col.5 lines 4-45, col.6 lines 32-65, col.7 line 31-col.8 line 63 and col.9 lines 15-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Schneider et al* and *Weschler* for the purpose of providing peer-to-peer communication and access; because it allows the members of a network to participate in file sharing, which permits the users to search and retrieve other users' stored information in the virtual network.

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b. **Per claim 2**, *Schneider et al* and *Weschler* teach the network claimed in claim 1, *Schneider et al* further teach wherein the global network interface provides priority network transmission by connection to a commercial global network system, which provides business critical levels of service (col.2 lines 36-52, col.4 lines 59-63 and col.5 lines 3-18).

c. **Per claim 3**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach including communication between the first and second network access devices, and the network authority, which utilizes digital certificates (col.8 lines 9-12, col.10 lines 19-64, col.11 lines 18-40).

d. **Per claim 4**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach wherein at least the first and second network members include means for exchanging public keys (col.10 lines 19-37).

e. **Per claim 7**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach including means for enabling limited access to the member's information to other network members, while excluding nonmembers from access (col.3 lines 43-50, col.5 line 5-col.6 line 8 and col.7 lines 40-65).

4. **Claims 28-36, 38-44, 47 and 51** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kleinpeter III et al* (USPN 6,907,463) in view of *Schneider et al* (USPN 6,105,027).

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a. **Per claim 28**, *Kleinpeter III et al* teach a method for forming a partnership between two dynamic virtual network members connected by a network, the method comprising:

- selecting a partnership criterion by the first network member (col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-38; user's request message is partnership criterion that initiates the agent selection process);
- broadcasting the partnership criterion by the first network member to other network members (col.7 lines 39-44; broadcasting of the request message includes a query with partnership criterion);
- receiving by a second network member the partnership criterion (col.1 lines 60-66 and col.7 lines 28-57; all nodes of the network received the request message, including the node able to fulfill the request);
- the second network member responding to the first network member (col.1 line 65-col.2 line 46 and col.7 lines 57-61; the node able to fill the request responds); and
- establishing a partnership relationship between the first network member and second network member (col.1 line 62-col.3 line 43, col.4 lines 27-63, col.7 lines 57-61 and col.8 line 22-col.9 line 36; upon receiving response from the responding node, a partnership is established via a connection of the ports from the active agent to the passive agent for handshaking and transfer instructions).

Yet, *Kleinpeter III et al* fail to distinctly teach virtual network members.

However, *Schneider et al* disclose a virtual private network with users forming a membership group (Abstract, col.4 lines 43-50, col.7 lines 42-65, col.11 line 29-col.12 line 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kleinpeter III et al* and *Schneider et al* for the purpose of implementing a virtual network with logical connections and access to other users and resources on the network; because it permits secure transparent communication for the users thereby creating a wide area network capable of spanning large geographic regions with many users.

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b. **Claim 36** is substantially similar to claim 28 and is therefore rejected under the same basis (*Kleinpeter III et al*; col.1 lines 43-45, col.3 lines 22-55, col.4 lines 18-26, col.7 lines 28-38, col.7 line 67-col.8 line 3 and col.11 lines 43-50).

c. **Claims 38 and 39** are substantially similar to claim 36 and are therefore rejected under the same basis.

d. **Per claim 29**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the network members are connected to the network via a network access device, which denies network access to net non-members (col.3 lines 43-50, col.5 line 5-col.6 line 8 and col.7 lines 40-65).

e. **Per claim 30**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's access drive (col.2 lines 30-45, col.6 lines 23-36, col.14 line 24-col.15 line 49 and col.18 line 11-col.19 line 45).

f. **Per claim 31**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's shared storage area (col.2 lines 30-45, col.6 lines 23-36 and col.12 lines 3-47; *Kleinpeter III et al*, col.6 lines 48-56 and col.8 lines 14-20 and col.10 lines 13-32).

g. **Per claim 32**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes transmittal by the first network member to the second network member of authorization to access private data on the first network member's network access device (col.9 line 56-col.13 line 8 and col.18 line 11-col.19 line 45).

h. **Claim 33** is substantially similar to claims 31 and 32 and is therefore rejected under the same basis.

i. **Per claim 34**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes permitting access by the first network member partner to role information of the second network member partner (col.6 lines 23-36, col.9 line 44-col.10 line 39 and col.13 line 10-col.14 line 63).

j. **Claim 35** is substantially similar to claims 32 and 34 and is therefore rejected under the same basis.

k. **Per claim 40**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein the archiving control element resides in the network access device (col.42 lines 48-62).

l. **Claim 41** is substantially similar to claim 40 and is therefore rejected under the same basis.

m. **Per claim 42**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed

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in claim 36, *Kleinpeter III et al* further teach wherein receiving and contemporaneously archiving the transmitted information includes sending a return receipt (col.5 lines 26-56 and col.9 line 56-col.10 line 6).

n. **Per claim 43**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach further comprising establishing a partnership between the first and second network members before the transmitting and contemporaneous archiving step (col.7 lines 42-65 and col.10 lines 3-18).

o. **Per claim 44**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein transmitting and contemporaneously archiving includes encrypting the information (col.4 lines 50-63, col.6 lines 9-22 and col.8 lines 19-27).

p. **Per claim 47**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein receiving and contemporaneously archiving transmitted information includes transmitting the signed document to the first network member (col.10 lines 26-67; *Kleinpeter III et al*, col.2 lines 25-31, col.10 lines 13-25 and 64-67).

q. **Per claim 51**, *Schneider et al* and *Kleinpeter III et al* teach a method of claim 28, *Kleinpeter III et al* wherein the partnership criterion is expressed as a search, and wherein the step of receiving comprises performing the search at the second network member (col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-61).

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5. **Claims 5, 6, 37, 45 and 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneider et al* (USPN 6,105,027) and *Weschler* (USPN 6,470,332) in further view of *Kleinpeter III et al* (USPN 6,907,463).

a. **Per claim 5**, *Schneider et al* (USPN 6,105,027) and *Weschler* teach the method of claim 1 as applied above, yet fail to explicitly teach wherein the network authority further includes a means for contemporaneously archiving a communication transmitted over the network. However, *Kleinpeter III et al* teach archiving communications transmitted over the network to a server or gateway (col.3 lines 22-55, col.7 line 67-col.8 line 3 and col.11 lines 34-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Schneider et al* and *Weschler* with *Kleinpeter III et al* for the purpose of contemporaneously archiving communications transmitted over a network, because this provisions the maintenance of the transmitted communications and also allows for the quick retrieval of communications that have been archived and the ability to handle interrupts by not starting a transmission over, but only transmitting data that is missing.

b. **Claim 6** is substantially equivalent to claim 5 and is therefore rejected under the same basis.

c. **Claim 37** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

d. **Claim 45** is substantially similar to claim 4 and is therefore rejected under the same basis.

e. **Claim 46** is substantially similar to claim 3 and is therefore rejected under the same basis.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Riddle* (USPN 5,857,189), *Jorgensen* (USPN 6,680,922), *Warris et al* (USPN 6,604,131), *Kley et al* (USPN 6,430,625), *Carter et al* (USPN 6,148,377) and *Rekimoto* (USPN 5,956,038).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds



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